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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 STEVEN ALLEN McCracken,

11 Plaintiff,

12 v.

13 WILLIAM MANNESS BRYAN,

14 Defendant.

CASE NO. C21-5222JLR

ORDER

15 **I. INTRODUCTION**

16 Before the court are: (1) Magistrate Judge Michelle L. Peterson's report and
17 recommendation ("R&R") (R&R (Dkt. # 12)) and *pro se* Plaintiff Steven Allen
18 McCracken's objections thereto (Obj. (Dkt. # 14)); (2) Mr. McCracken's notice on the
19 timeliness of his objections to Magistrate Judge Peterson's R&R, which the court will
20 construe as a motion for an extension of time in accordance with its duty to liberally
21 construe *pro se* filings (Notice (Dkt. # 13)); (3) Mr. McCracken's objection to the
22 Magistrate Judge's order requiring him to serve his objections on Defendant William

1 Manness Bryan and a motion for a continuance of that service deadline (Mot. for Cont.
2 (Dkt. # 15)); and (4) Mr. McCracken's motion to amend his complaint (Mot. to Amend
3 (Dkt. # 9)). Magistrate Judge Peterson recommends that the court dismiss Mr.
4 McCracken's complaint and deny his motion to amend as moot pursuant to 28 U.S.C.
5 § 1915(e)(2)(B) for failure to state a cognizable claim for relief. (R&R at 1, 12.) Having
6 carefully reviewed all of the foregoing, all other relevant documents, and the governing
7 law, the court ADOPTS Magistrate Judge Peterson's R&R, DENIES Mr. McCracken's
8 pending motions for an extension of time, continuance of the service deadline, and to
9 amend his complaint as moot, and DISMISSES this action with prejudice.

10 II. BACKGROUND

11 Mr. McCracken brings claims against Mr. Bryan under 18 U.S.C. § 1595, the civil
12 remedy provision of the Trafficking Victims Protection Act ("TVPA" or "the Act"). (*See*
13 *generally* Compl. (Dkt. # 5).) His claims relate to the drug offenses for which he is
14 currently confined. (*See id.*) He asserts that his longtime acquaintance, Mr. Bryan,
15 coerced him into participating in the drug transaction which led to his conviction and
16 confinement. (*See id.* at 1, 15-19.) Mr. McCracken alleges that Mr. Bryan's conduct
17 violated various provisions of the TVPA, including those which criminalize forced labor
18 (§ 1589), involuntary servitude (§ 1584), and peonage (§ 1581), thus entitling Plaintiff to

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1 an award of damages under § 1595. (*See id.*)¹ During the interaction that serves as the
2 basis for Mr. McCracken’s claims, Mr. Bryan accused Mr. McCracken of “starving out”
3 and “cutting the throat” of both Mr. Bryan and another individual. (*Id.* at 3.) Mr.
4 McCracken alleges that, “[a]fter some back and forth,” Mr. Bryan told him: “You think
5 I’m gonna sit here out of dope while you are the only one that has [or can get] product?”
6 and “I’m not going to take that!” (*Id.* at 2.) Mr. McCracken asserts that he interpreted
7 these statements as a threat, ultimately leading him to engage in the drug transaction. (*Id.*
8 at 2-3.)

9 After reviewing the complaint, Magistrate Judge Peterson concluded that Mr.
10 McCracken had not identified therein any plausible claim for relief, and she issued an
11 order directing Mr. McCracken to show cause why this action should not be dismissed.
12 (OSC (Dkt. # 6).) Mr. McCracken filed a response to Magistrate Judge Peterson’s order
13 to show cause (Resp. (Dkt. # 8)) as well as a motion for leave to amend his complaint.
14 (*See* Mot. to Amend); *see also* R&R (noting that Mr. McCracken’s motion for leave to
15 amend “is actually a request to supplement his original complaint with additional details
16 and facts apparently intended to demonstrate the plausibility of his claims”).) Magistrate
17 Judge Peterson then filed her R&R recommending that the court dismiss Mr.
18 McCracken’s complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a
19 cognizable claim for relief and deny his motion to amend as moot. (*See* R&R at 12.) Mr.

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21 ¹ Mr. McCracken also alleges that Mr. Bryan violated the Act by benefitting financially
22 from peonage, slavery, and trafficking in persons, as well as by conspiring and attempting to
violate various provisions of Chapter 77 of Title 18. (*See* Compl. at 1, 15-19.)

1 McCracken timely filed his objections to Magistrate Judge Peterson’s R&R. (*See* Obj.;
2 Notice.) The court now considers Mr. McCracken’s objections.

3 III. ANALYSIS

4 A district court has jurisdiction to review a Magistrate Judge’s report and
5 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). “The district judge must
6 determine de novo any part of the magistrate judge’s disposition that has been properly
7 objected to.” *Id.* “A judge of the court may accept, reject, or modify, in whole or in part,
8 the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).
9 The court reviews de novo those portions of the report and recommendation to which
10 specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121
11 (9th Cir. 2003) (en banc). “The statute makes it clear that the district judge must review
12 the magistrate judge’s findings and recommendations de novo if objection is made, but
13 not otherwise.” *Id.*

14 Title 28 U.S.C. § 1915(e)(2)(B) authorizes a district court to dismiss a claim filed
15 *in forma pauperis* “at any time” if it determines: (1) the action is frivolous or malicious;
16 (2) the action fails to state a claim; or (3) the action seeks relief from a defendant who is
17 immune from such relief. *See* 28 U.S.C. § 1915(e)(2)(B). The complaint must allege
18 facts that plausibly establish the defendant’s liability and contain “a short and plain
19 statement of the claim showing that the pleader is entitled to relief.” *See* Fed. R. Civ. P.
20 8(1)(2); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007); *Lopez v. Smith*, 203
21 F.3d 1122, 1126-27 (9th Cir. 2000) (noting that Section 1915(e)(2) parallels the language
22 of Federal Rules of Civil Procedure 12(b)(6)); *see also Ashcroft v. Iqbal*, 556 U.S. 662,

678 (2009) (citing *Twombly*, 550 U.S. at 555) (noting that Federal Rule of Civil Procedure 8’s pleading standard demands more than “an unadorned, the-defendant-unlawfully-harmed-me accusation”). Because Mr. McCracken is proceeding *pro se*, the court must interpret his complaint and objections liberally. See *Bernhardt v. Los Angeles County*, 339 F.3d 920, 925 (9th Cir. 2003). But even liberally construed, Mr. McCracken’s complaint fails to plausibly establish Mr. Bryan’s liability or raise his “right to relief above the speculative level.” See *Twombly*, 550 U.S. at 555; see also *In re Gilead Scis. Sec. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008) (noting that in reviewing the plausibility of a complaint courts do not “accept as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences”).

Mr. McCracken raises numerous objections to the R&R. (See generally Obj.) His objections are directed at (1) Magistrate Judge Peterson’s overall conclusion that Mr. McCracken failed to plausibly allege that Mr. Bryan’s conduct rose to the level of the type of conduct criminalized in § 1589 (forced labor), § 1584 (involuntary servitude), and § 1581 (peonage) and (2) the way Magistrate Judge Peterson considered certain facts in reaching her conclusion. (*Id.* at 2-3.) The court has reviewed Mr. McCracken’s objections, and has considered Magistrate Judge Peterson’s recommendations de novo in light of those objections. Mr. McCracken’s objections essentially reiterate his arguments from previous filings and do not raise any novel issues that were not addressed by Magistrate Judge Peterson’s R&R.

“Congress’s express purpose in enacting the TVPA in 2000 was ‘to combat trafficking in persons, a contemporary manifestation of slavery whose victims are

1 predominantly women and children, and to ensure just and effective punishment of
 2 traffickers, and to protect their victims.” Pub. L. No. 106-386, § 102(a), 114 Stat. 1464
 3 (2000); (*see also* R&R at 5).² However, as Mr. McCracken addressed in his objections,
 4 courts have noted that Congress broadly defined the types of harm and conduct that
 5 qualify under the Act because “the means used by modern-day traffickers are
 6 ‘increasingly subtle.’” *United States v. Dann*, 652 F.3d 1160, 1169 (9th Cir. 2011)
 7 (quoting H.R. Rep. No. 106–939, at 101 (Conf. Rep.)); (*see also* Obj. at 18-20). While
 8 the court acknowledges the TVPA’s broad scope, the facts in this case do not rise to the
 9 level of the types of harm and conduct covered by the Act. *Dann*, 652 F.3d at 1170 (“To
 10 be sure, not all bad employer-employee relationships or even bad employer-immigrant
 11 nanny relationships will constitute forced labor.”).

12 The facts in this case do not demonstrate that Mr. McCracken was a servant or
 13 slave to Mr. Bryan, but instead showed that Mr. McCracken and Mr. Bryan were
 14 longtime acquaintances and that Mr. McCracken was enlisted on one occasion to arrange
 15 and execute a drug transaction allegedly against his will. (R&R at 8; Compl. at 2-4,
 16 15-19.) Moreover, Mr. McCracken acknowledges that Mr. Bryan made random, explicit
 17 threats to him in the past that did “not to force him into buying and/or selling drugs,” but
 18 instead “focused on forcing Plaintiff to do or not do other stuff, such as not stealing
 19 customers, money, or drugs” (R&R at 7; Compl. at 13.) Mr. McCracken does not

21 ² Mr. McCracken relies on § 1589, which was enacted as part of the TVPA, as a basis for
 22 his forced labor claim. The other statutes that Mr. McCracken relies on, §§ 1581 and 1584, were
 enacted by Congress to implement the Thirteenth Amendment. (R&R at 5); *United States v.*
Kozminski, 487 U.S. 931, 945-52 (1988); *United States v. Gaskin*, 320 U.S. 527, 528 (1944).

1 allege that any of Mr. Bryan's prior threats transformed his relationship with Mr. Bryan
2 into one of involuntary servitude or forced labor. Instead, Mr. McCracken insists that the
3 relationship changed when Mr. Bryan said, "You think I'm gonna sit here out of dope
4 while you are the only one that has [or can get] product?" and "I'm not going to take
5 that!" in a "godfather type tone." (Compl. at 2.) Mr. McCracken fails to plausibly
6 explain why these later purported threats transformed the relationship into one of
7 servitude or forced labor, while the prior threats did not. Considering the totality of the
8 circumstances, the court finds Mr. McCracken's allegation that Mr. Bryan's purported
9 threats coerced him into participating in a drug transaction against his will insufficient to
10 elevate Mr. Bryan's conduct to the type of conduct criminalized in §§ 1589, 1584, and
11 1581.

12 Accordingly, Mr. McCracken's complaint falls short of plausibly alleging any
13 entitlement to relief under the TVPA. The court has thoroughly examined the record
14 before it and finds Magistrate Judge Peterson's reasoning persuasive in light of that
15 record. The court independently finds that Mr. McCracken's complaint (Dkt. # 5) fails to
16 state a claim for the same reasons set forth by Magistrate Judge Peterson in her R&R.

17 IV. CONCLUSION

18 For the reasons stated above, the court:

19 (1) ADOPTS Magistrate Judge Peterson's R&R (Dkt. # 12) in its entirety;

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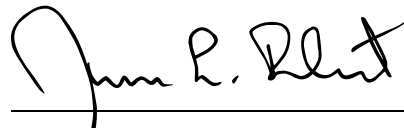
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1 (2) DISMISSES with prejudice Mr. McCracken's complaint (Dkt. # 5) and this
2 action pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a cognizable claim for
3 relief;

4 (3) DENIES as moot Mr. McCracken's motion to amend his complaint (Dkt. # 9),
5 his motion for an extension of time (Dkt. # 13), and his motion for a continuance (Dkt.
6 # 15); and

7 (4) DIRECTS the Clerk to send copies of this order to the parties and to
8 Magistrate Judge Peterson.

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10 Dated this 1st day of October, 2021.

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13 JAMES L. ROBART
14 United States District Judge
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